

Amendments to the Drawings:

None

REMARKS/ARGUMENTS

Reconsideration of the present application as amended is respectfully requested.

Claims 1 and 10 have been amended, claim 3 has been cancelled, claims 14-21 have been added claims 2, 4-9 and 11-13 remain in this application.

In the Office Action mailed April 17, 2009, the Examiner rejected claims 1-9 under 35 U.S.C. 101 for not falling into one of the four statutory categories. The Examiner requires that the process be tied to another statutory category or transform underlying subject matter to a different state.

Claim 1 has been amended so that steps therein are tied to another statutory category.

Applicant respectfully submits that claims 1-9 are now statutory under 35 U.S.C. 101.

The Examiner rejected claims 1-6 and 10-11 (and arguably 8 and 9) under 35 U.S.C. 102(e) as being anticipated by US 2005/0276567 Okuyama et al. In particular, the Examiner submitted that claim 1 which describes a method of detecting a boundary of a content item in a digital video stream, via a change in the average bit rate is anticipated by Okuyama et al.

Okuyama et al. describes a method of recording digital television signals at varying data rates. The data rates are

adjusted according to the importance of the material to the user and according to the underlying quality of the source video.

Original claim 1 is amended to include the claim 3 limitations "detecting shot-cuts in the content item" and "adjusting the period of time to compute the average based on the detected shot-cut".

Original claim 3 which contained this limitation is cancelled. The Examiner rejected original claim 3 as being anticipated by Okuyama et al. citing paragraphs 0036-0038.

Applicant submits that the Examiner is mistaken. In particular, the cited paragraphs of Okuyama et al. state:

"FIG 5 is a performance chart illustrating another example of rate conversion operation of the rate converter in accordance with the present invention. This figure illustrates a bit rate after conversion with a rate converter during one program. The bit rate C with the lowermost level represents a case when broadcasting of commercial was detect, for example, by changes in the voice mode. The bit rate B of the medium level represents a case when a broadcasting of highlights was detected by program information. With the present embodiment, highlights of major interest can be high-quality video. For commercials, the bit rate can be decreased and the quantity of recorded data can be reduced. Thus, if recording in the same program conducted by taking the contents into account, then the entire quantity of data can be reduced by recording only the content with a high priority as high-quality video and recording other contents at a low bit rate.

"Further, by employing the difference in the recording bit rates, it is also possible to provide a function of conducting the reproducing operation with the skipping of the next commercial, during reproduction. When using the system the user may directly supply an instruction of changing the bit rate of recording to the operation unit.

"FIG. 6 is a performance chart illustrating an example of rate conversion operation of the rate converter in accordance with the present invention. In HDTV broadcasting, the original video data is sometimes SDTV, but broadcast as HDTV. However, in this case, the bit rate of inputting into the rate converter decrease by comparison with that in the case when the original video data in HDTV. FIG. 6 shows the bit rate of video data input in the rate converter. In a HDTV broadcast time zone 17a, the original video data is HDTV and the average level is a high bit rate A, whereas in a time zone 17b in which SDTV video is broadcasted as HDTV, because the amount information is small the average level is a low bit rate B and the difference between can be recognized automatically. In the HDTV broadcast time zone 17a, output is conducted without changing the bit rate, and the average level is high bit rate A. In the time zone 17b, converting to SDTV of the original video data automatically switched the average level to a bit rate with an average C which even lower than B."

It should be clear from the above that Okuyama et al. neither discloses nor suggests "detecting shot-cuts in the content item" and "adjusting the period of time to compute the average based on the detected shot-cut". Applicant therefore respectfully traverses this rejection. Amended claim 1 should now be in condition for allowance.

New claim 14 includes the limitations of original claims 1 and 4. The Examiner had rejected claim 4, which includes the limitation "wherein a moving average of the bit rate is determined", citing paragraphs 0038-0036 reproduced above. Applicant respectfully submits that Okuyama et al. neither discloses nor suggests the use

of a moving average. The applicant respectfully traverses this rejection.

The Examiner has rejected claim 2-6 as anticipated by Okuyama et al. Since claim 1 has now been amended with material not present in Okuyama et al., Applicant respectfully traverses the rejections of claims 2, 4, 5 and 6.

The Examiner has rejected claim 8 and indicates that Okuyama et al. describes a method involving the obtaining a broadcast schedule in paragraph 0038 reproduced above.

Applicant believes that the Examiner is mistaken. This paragraph describes a circumstance whereby digital content may be broadcast in high quality HDTV or in lower quality SDTV. Okuyama et al. does not describe accessing a broadcast schedule in paragraph [0038]. While Okuyama et al. does describe obtaining program information in paragraph [0036], claim 8 includes the limitations "obtaining a broadcast schedule..." and then "verifying that broadcast schedule by detection of a boundary of a specific content item", Applicant submits that Okuyama et al. neither discloses nor suggests this verifying step. As such, Applicant respectfully traverses this rejection.

The Examiner rejected claims 10-11 for the same reasons as used for the rejection of claim 1. We have amended claim 10 to incorporate the limitations of claim 4. For reasons given above

regarding new claim 14, we respectfully traverse this rejection and submit that this change places claims 10-11 in position for allowance.

The Examiner has rejected claims 7 and 13 under 35 U.S.C. 103(a) as being unpatentable over Okuyama et al.

In view of the allowability of claims 1 and 10 as noted above, Applicant believes that claims 7 and 13, which are directly dependent on claims 1 and 10, respectively, should now be allowable.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

If any informalities remain, the Examiner is requested to telephone the undersigned in order to expedite allowance.

Please charge any fee deficiencies and credit any overpayments to Deposit Account No. 14-1270.

Respectfully submitted,

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